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| APPLICATION NO.               | FILING DATE | FIRST NAMED INVENTOR  | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-------------------------------|-------------|-----------------------|---------------------|------------------|
| 10/577,393                    | 04/27/2006  | Marcos Isamat Riviere | 6647 / 012          | 1396             |
| 22440                         | 7590        | 01/05/2010            | EXAMINER            |                  |
| GOTTLIEB RACKMAN & REISMAN PC |             |                       | KOSSON, ROSANNE     |                  |
| 270 MADISON AVENUE            |             |                       |                     |                  |
| 8TH FLOOR                     |             |                       | ART UNIT            | PAPER NUMBER     |
| NEW YORK, NY 10016-0601       |             |                       | 1652                |                  |
|                               |             |                       |                     |                  |
|                               |             |                       | MAIL DATE           | DELIVERY MODE    |
|                               |             |                       | 01/05/2010          | PAPER            |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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| APPLICATION NO./<br>CONTROL NO. | FILING DATE | FIRST NAMED INVENTOR /<br>PATENT IN REEXAMINATION | ATTORNEY DOCKET NO. |
|---------------------------------|-------------|---|---------------------|
| 10577393                        | 4/27/06     | ISAMAT RIVIERE, MARCOS                            | 6647 / 012          |

EXAMINER

Rosanne Kosson

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| ART UNIT | PAPER |
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1652 20091223

DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner for Patents**

The reply filed on November 23, 2009 is not fully responsive to the prior Office Action because of the reasons discussed below. Since the period for reply set forth in the prior Office action has expired, this application will become abandoned unless applicant corrects the deficiency and obtains an extension of time under 37 CFR 1.136(a).

The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. In no case may an applicant reply outside the SIX (6) MONTH statutory period or obtain an extension for more than FIVE (5) MONTHS beyond the date for reply set forth in an Office action. A fully responsive reply must be timely filed to avoid abandonment of this application.

Applicants' Response to the Quayle action of September 30, 2009 has been received and entered. As previously discussed, claims 11, 13 and 16-19 are pending. Claims 1-10, 12 and 14-15 were previously canceled. This application is in condition for allowance except for the following formal matters.

The sequence listing requires correction, as indicated in the attached Notice. Specifically, as previously discussed, original Figures 3 and 6 disclose sequences that must be added to the Sequence Listing. A paper copy, an electronic copy and a Statement that the two are identical in content are required. Fig. 3 discloses sequences from three different animals containing a portion of exon 2, intron B and a portion of exon 3 of the beta-actin gene from each animal. Fig. 6 discloses sequences from eight different animals that are intron B of the beta-actin gene. For a particular species of animal, if a sequence in Fig. 6 is a fragment of the corresponding sequence in Fig. 3, which might be the case for the human and mouse gene fragments, only the larger sequence need be added to the Sequence Listing. The figures should be amended to add SEQ ID NOS: to each sequence. Alternatively, the description of the drawings in the specification may be amended to add SEQ ID NOS: to each sequence. A sequence and a fragment thereof shown in the drawings may have the same SEQ ID NO: if the fragment is not listed separately in the Sequence Listing.

Applicants' response contains a number of errors to be corrected. First, all the sequences in new Figs. 3 and 6 are different from the sequences in the original drawings. These new sequences are new matter, and this new matter may not be added to application or substituted for parts of the application. The new drawings should be replaced with the original drawings. A new sequence listing is required that contains the sequences in the original drawings. In their response, Applicants' note that the sequences in Fig. 3 have been changed, based on a murine polynucleotide, GenBank record no. NC\_000071.5, chromosome 5. Applicants may not make these changes, because this polynucleotide was not part of the application as filed. Instead, Applicants used murine polynucleotide NM\_007393.1, the beta-actin gene. Additionally, as discussed previously and above, SEQ ID NOS: must be added either to the drawings or to the description of the drawings (or to both), so that the all sequences in the application may be identified. As previously discussed, prosecution on the merits is closed in accordance with the practice under Ex parte Quayle, 25 USPQ 74, 453 O.G. 213, (Comm'r Pat. 1935).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rosanne Kosson whose telephone number is (571)272-2923. The examiner can normally be reached on Mon., Thurs., Fri., 8:30-6:00, Tues., 8:30-2:00, Wed. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Wang, can be reached on 571-272-0811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

rk/2009-12-21

/Karen Cochrane Carlson/  
Primary Examiner, Art Unit 1656

PTO-90C (Rev.04-03)